

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS

INQUIRY CONCERNING

A JUDGE

No. 17

NOTICE OF
FORMAL PROCEEDING

TO: JUDGE WILLIAM D. SPRUANCE, JR:

It appearing that since January 1, 1971, and at all times herein, you have been a Judge of the the San Leandro-Hayward Municipal Court and;

Preliminary investigation having been made pursuant to the provisions of Rule 904 of the California Rules of Court concerning the censure, removal or retirement of judges, during the course of which preliminary investigation you were afforded a reasonable opportunity to present such matters as you chose; and this Commission as a result of said preliminary investigation has concluded that formal proceedings to inquire into the charges against you shall be instituted pursuant to section 18 of article VI of the California Constitution and in accordance with Rules 901-921 of the California Rules of Court.

NOW, THEREFORE, YOU ARE HEREBY accused of wilful misconduct in office and conduct prejudicial to the administration of justice that brings the judicial office into disrepute in the following particulars:

I

Your court is conducted in a bizarre and unjudicial manner. During both open and in-chambers sessions you have treated witnesses, litigants, attorneys, and court personnel in a cavalier, rude and improper manner as more particularly described below.

A. During the course of Julio Fusilero's testimony in his own behalf during a criminal trial you expressed disbelief in his testimony by protruding your tongue while forcing air from your lips to create a sound commonly referred to as a "raspberry." You have indulged in this gesture on other occasions in open court.

B. On or about June 15, 1972, and on other occasions you have made an obscene gesture towards defendants with the middle finger of your right hand. This has occurred both in open court and in chambers.

C. On or about March 1, 1972, you did improperly order Deputy Public Defender James Feldman removed from the case of People v. Walter Cloetta when he counseled his client not to accept the district attorney's offer of a plea to a lesser offense.

D. On or about August 6, 1972, you did publicly demean Deputy Public Defender James Feldman by suggesting to his client that he should have a "real lawyer" represent him.

E. On or about August 11, 1972, when Attorney

Victor J. Gianunzio took the stand in support of his motion to disqualify you pursuant to Code of Civil Procedure section 170.6 you did improperly subject him to demeaning cross-examination and levy "witness fees" against him. In an attempt to prevent review of this misconduct you reduced the improperly charged "witness fees" upon extracting Mr. Gianunzio's promise not to appeal your ruling.

F. On or about October 31, 1972, you did in open court demean Deputy District Attorney Melville Behrendt by placing him under restraint for approximately one hour without proper cause.

G. On or about August 8, 1972, you did demean in open court Deputy District Attorney Richard Hardin, by continually referring to him as "Judge Hardin" and required him to rule on all matters submitted to you that day.

H. You have in open court publicly embarrassed Mrs. Zolo M. White, a certified court reporter, by publicly referring to personal and private matters concerning her.

I. On or about January 6, 1972, you stated in open court to Mrs. Virginia Nation, of the Alameda County Probation Department, that her recommendation concerning a defendant awaiting sentence was too lenient. You then demeaned her by accusing her of having an affair with the defendant, causing her

considerable embarrassment.

Such conduct prevents your court from being conducted in an atmosphere of fairness and impartiality or with the dignity and decorum the public has a right to expect.

II

A. On a number of occasions you approached Deputy District Attorney William Cosden who was then in charge of the prosecution of Robert Alchian seeking his cooperation in obtaining an adjudication of that case favorable to the defendant. That on these occasions you attempted to coerce Deputy Cosden by stating that if he intended to enter the private practice of law in the Hayward area it would be judicious of him to dispose of the case in the manner you suggested. When Deputy Cosden refused, you accused him in open court of discrimination against the defendant. You thereafter continued to verbally attack him both in open court and in chambers.

B. On or about June 27, 1972, you contacted Deputy Cosden's superior George Nicholson seeking a dismissal of the charges against defendant Alchian.

C. You attempted to coerce Deputy District Attorney Robert B. Hutchins into accepting a negotiated plea in the case of the People v. Christopher Steven Goulardt. At the conclusion of the trial of that matter you stated that the district attor-

ney's refusal to accept the plea had placed you "in a box" and that you would have to do something you did not wish to do. Thereafter, although there was no motion pending before you you suppressed the evidence against the defendant. When advised by Deputy Hutchins that he intended to appeal your ruling suppressing evidence you did, in open court, threaten that such an appeal would result in unfavorable rulings in all cases presented to you by the district attorney's office.

D. Your harassment of Deputy District Attorney Melville Behrendt [supra I F] was in retaliation for an appeal taken by him from your ruling in People v. William Peter Peluso wherein on or about July 29, 1971, you dismissed the conviction of William Peluso for violating Vehicle Code section 23103 without notice to the district attorney. Thereafter you co-hosted a benefit cocktail party at "Peluso's Blue Dolphin" restaurant which is owned by the defendant William Peluso's father.

E. On or about July 19, 1972, you did cause Ralph Noren Leines to appear before you in Hayward in response to a citation for violating Vehicle Code section 23109(a) although he was cited to appear in a San Leandro court. Without notice to, nor appearance of the district attorney you reduced the charge to a violation of section 22502 of the Vehicle Code.

This action was in violation of the California Rules of Court, Rule 533(a)(2) and was an unauthorized assumption of jurisdiction.

F. On or about August 7, 1972, you did cause the official file in People v. Leines, No. 3-048479-2 to be improperly transferred to you from the court of Judge Robert K. Byers. The following day the defendant, Ralph Noren Leines in company with his uncle, appeared before you. He was released on his own recognizance after you stated you knew that this was the first time the defendant had ever been involved in any court proceeding [compare, II E, supra]. When Deputy District Attorney George Nicholson inquired of you about this conduct you stated that it was done as a favor to the defendant's uncle who had helped you get elected. When Deputy Nicholson suggested your conduct was improper you retorted with an obscenity.

G. Prior to receiving the testimony of Officer William Kinsella, the chief prosecution witness against Ralph E. Black, a defendant in a traffic matter then pending before you, you conducted a lengthy social conversation, audible throughout the courtroom, which awakened the suspicion that your friendship with Officer Kinsella may have influenced your finding of guilt in Mr. Black's case.

The foregoing conduct as set forth in paragraphs A through G is an improper interference with, and is detrimental

to, the administration of justice. Such behavior leaves the impression that you can be improperly influenced and indicates that your business relations and social friendships improperly influence your judicial conduct.

III

On or about November 2, 1971, you did solicit another judge of your court to dismiss a citation received by you for violating Vehicle Code section 21453(a). Although the other judge attempted to disqualify himself your insistence overcame that decision and, upon your urging, he dismissed that citation. Thereafter you altered the reported disposition of that violation by inserting a reference that the matter had been dismissed upon completion of all sessions of traffic school when in fact you had not attended any sessions of traffic school between receipt of said ticket and its dismissal.

IV

On or about January 3, 1973, you attempted to induce Mrs. Zolo M. White, a certified court report, to execute a statement in your behalf to be submitted to the Commission on Judicial Qualifications. Upon her refusal to execute a favorable statement you did threaten to publicly disgrace and embarrass her should she be a witness against you before that body.

V

You have consistently appointed Attorneys Robert Winkler and Julio Juarez in criminal cases in which the defendant was either not entitled to counsel at public expense or the public defender had not been requested to represent them.

The charges detailed above each individually constitutes wilful misconduct in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute. You have the right to file a written answer to the charges against you within 15 days after service of this notice upon you with the Commission on Judicial Qualifications, Room 3041, State Building, 350 McAllister Street, San Francisco, California 94102. Such answer must consist of an original and 11 legible copies, be verified and conform in style to subdivision (c) of Rule 15 of the Rules on Appeal. By Order of the Commission on Judicial Qualifications.

DATED:

July 13, 1973


CHAIRMAN

Commission on Judicial Qualifications